

CERTIFIED MAIL

NOV 27 1992

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

The information submitted disclosed that you were incorporated on [REDACTED] under the nonprofit law of [REDACTED].

The Association is organized for the purpose of maintaining, operating and managing a professional office building know as [REDACTED], A Condominium, located in the Township of [REDACTED], County of [REDACTED] and State of [REDACTED], and the common elements thereof, as more particularly described in the Master Deed establishing said professional office building with the County Clerk of [REDACTED] County, [REDACTED], and for these purposes:

- (a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Master Deed, as same are applicable to the property described therein, and as that certain Master Deed may be amended from time to time as therein provided; said Master Deed being incorporated herein as if set forth at length;
- (b) To fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of said Master Deed and the By-Laws of the Association; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the association including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (c) To acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of, real or personal property in connection with the affairs of the Association;

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	9/25/92	9/28/92	11/27/92				

- [REDACTED]
- (d) To borrow money, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and
 - (e) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Corporations and Associations Not For Profit Act of the State of [REDACTED] by law now or hereafter have or exercise.

Membership is open to all "unit" owners in the condominium. There are no classes of membership. Each member's voting rights is equal to a percentage of his/her interest in each unit to which he/she holds title.

Income to your organization is derived from monthly pro rata assessments from members according to master deed allocation.

Expenses are solely for maintaining, operating and managing the professional office building.

Section 501(c)(6) of the Internal Revenue Code provides exemption from Federal income tax to organizations such as business leagues, chambers of commerce, real-estate boards and other organizations that are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a 501(c)(6) organization as follows:

1. A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit.
2. A business league is an organization of the same general class as a chamber of commerce or board of trade. The activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of services for individual persons.
3. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit even though the business is conducted on a cooperative basis and produces only sufficient income to be self-sustaining is not a business league.

[REDACTED]

Income Tax Regulations 1.501(c)(6)-1 states that a ^{League} business is an organization of the same general class as a chamber of commerce or board of trade, and that a tax-exempt business league's activities should be directed to the improvement of business conditions in one or more lines of business.

Revenue Ruling 58-294 published in Cumulative Bulletin 1958-1 on page 244 holds that an organization organized and operated for the purpose of promoting uniform business advertising and fair trade practices of a specified patented product was not a business league within the meaning of section 501(c)(6) since its primary purpose was to further the business interests of the dealers of a single product rather than the industry as a whole.

Revenue Ruling 67-77 published in Cumulative Bulletin 1967-1 on page 138 holds that an organization composed of dealers in certain make of automobile in a designated area, organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by dealer-members, the sale of that automobile, is performing particular services for its members instead of promoting the common interests of the automotive industry as a whole was not entitled to exemption as a business league.

Revenue Ruling 56-65, published in Cumulative Bulletin 1956-1 on page 199, denied exemption to an organization whose principal activity consists of furnishing particular information and specialized services to its individual members engaged in a particular industry, to effect economies in the operation of their individual businesses.

Revenue Ruling 59-391 published in Cumulative Bulletin 1959-2 on page 151 holds that an organization composed of individuals, firms, associations and corporations, each representing a different trade, business, occupation or profession whose purpose is to exchange information on business prospects has no common business interest other than a mutual desire to increase their individual sales. The activities are not directed to the improvement of one or more lines of business, but rather to the promotion of the private interest of its members.

In American Automobile Association V Commissioner, EC 1146 (1953), is a national association composed of individual automobile owners and affiliated auto clubs. Notwithstanding its broad purposes to improve highway traffic safety and to educate the public in traffic safety its principal activities were determined to consist of securing benefits and performing particular services for members and therefore, did not qualify for exemption as a business league.

An organization performing particular services for individual persons is not entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986 as a business league.

[REDACTED]

A common business interest is the improvement of business conditions of one or more lines of business.

You stated your organization is comprised of members whose common business interest is that they are all office condominium owners, who pay a monthly fee for the maintenance, operation and management of the office space in their condominium.

The payment of monthly fees for the maintenance, operation and management of office space is not a common business interest. Therefore, based upon the information you submitted, and the applicable law cited above, we conclude that you are primarily organized and operated to provide services for the personal benefit of your members and your organization does not have common business interest.

It is held that you do not qualify as an organization described in section 501(c)(6) of the Internal Revenue Code.

In accordance with this determination, you are required to file Form 1120 for Federal income tax purposes.

You had originally requested exemption under section 501(c)(4) of the Code.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-99 published in Cumulative Bulletin 1974-1 on page 131 provides that a homeowners association, to qualify for exemption under section 501(c)(4) of the Code, (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas of facilities it owns and maintains must be for the use and enjoyment of the general public.

Revenue Ruling 74-17 published in Cumulative Bulletin 1974-1 on page 130 holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption.

[REDACTED]

As noted earlier, the primary purpose of your organization is the maintenance, operation and management of the office space in the condominium which serves the interests of your members.

Since you are serving the private interests of your members you are not operated exclusively for the promotion of social welfare as described in section 501(c)(4) of the Internal Revenue Code.

Accordingly, you do not qualify for exemption under section 501(c)(4) of the Internal Revenue Code and you are required to file Form 1120 for Federal income tax purposes.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Appeals submitted which do not contain all documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



H. J. Hightower
District Director

Enclosure: Publication 892